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OGC 70-0097

19 January 1970

MEMORANDUM FOR: Curator, Historical Intelligence Collection  
SUBJECT: OSS Records

There appears to be no technical obstacle to the transfer of the OSS records to National Archives and Record Service with any restrictions as to access that should be imposed. However, there are some considerations:

- a. Whether the Joint Chiefs should be consulted, inasmuch as technically the OSS records are Joint Chiefs' property which, with the acquiescence of the Joint Chiefs, have been in our custody and control ever since CIG days.
- b. Assuming that the papers are placed in National Archives, with access to be granted only by persons cleared by the Joint Chiefs or CIA, you run the chance of refusing access to an individual who thereupon brings some sort of an action in the courts to determine that he is as clearable as others who have previously been given access.
- c. As we read the Freedom of Information Act, the practice of giving access to certain people and not to others cannot be challenged under the bill. However, there is at present a suit in the Federal court in California in which the plaintiff seeks to gain access

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to certain OSS records in the possession of the Army. The plaintiff seeks a ruling that the Freedom of Information Act authorizes the court to review the validity of the classification rather than accept the executive determination thereon. Congressman Moss has stated this is his interpretation of the bill. We believe this is an erroneous determination, but we cannot be sure of the outcome until the appeals procedure has been completed.

d. Aside from the strict business of classification in the interest of national security, there are a substantial number of papers in the OSS archives which, if made public, could be seriously embarrassing to people still living, and these would not necessarily come under the protection given to personnel files. An example I recall is the investigation into a one-man mission to Yugoslavia which the individual reported on in very lurid fashion and which involved some rather dramatic episodes. The outcome of the investigation was that the individual concerned probably had his interpretation of the episodes influenced by psychotic conditions. [redacted]

[redacted] and would probably not welcome the old story being brought up.

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LAWRENCE R. HOUSTON  
General Counsel

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